

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

January 5, 2011

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:30 p.m. in the City Council Conference Room on the 5th day of January, 2011, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Griffith, Kovach, and Chairman Dillingham

ABSENT: None

OTHERS PRESENT: Ms. Susan Connors, Director of Planning and Community Development  
Mr. Mark Daniels, Utility Engineer  
Ms. Brenda Hall, City Clerk  
Mr. Ken Komiske, Director of Utilities  
Mr. Doug Koscinski, Current Planning Manager  
Ms. Leah Messner, Assistant City Attorney  
Mr. Scottie Williams, Utilities Superintendent  
Ms. Syndi Runyon, Administrative Assistant IV

### FOLLOW-UP DISCUSSION REGARDING THE PROPOSED ORDINANCE REGULATING DUMPSTER PLACEMENT.

Mr. Ken Komiske, Director of Utilities, said the proposed ordinance states, "in the instance where the property that is zoned Industrial, Commercial, Office, or Multi-Family abuts a single-family residential zone, the dumpster and/or compactor must be set back 20 feet from the property line that abuts the single family zone." He said the ordinance will apply to all new construction, changes in zoning or use, or if the property has been vacant for more than two years. He said there are 2,400 commercial customers and approximately 150 of those are in areas that abut residential areas, but cannot meet the 20 foot set back. Chairman Dillingham asked if the requirements should be tied to zoning or use and thought use would give Staff more latitude for enforcement. Councilmember Kovach said most of the existing dumpsters that would be in violation were not within 20 feet of a home so he did not believe they would be a problem to anyone. Mr. Doug Koscinski, Current Planning Manager, said the awkward piece of the ordinance would be instances where businesses are mandated to place dumpsters in the alley and that would violate the proposed ordinance. He said it could be mandated that dumpsters be placed away from the residential side of the alley and Chairman Dillingham agreed and language could read "whenever possible, dumpsters be placed on the non-residential side of the alley." Mr. Komiske asked if the ordinance should be complaint driven and Chairman Dillingham said yes.

Ms. Leah Messner, Assistant City Attorney, asked if Councilmembers wanted the ordinance to be retroactive when there is a complaint and Councilmember Kovach said yes, but only enforced upon a complaint. Chairman Dillingham said in order to make retroactivity work without having to move 150 dumpsters the Committee needs to narrow the focus to the real problem, which seems to be areas where dumpsters are located very close to a single family residence or in an area not primarily commercial and someone has complained.

Mr. Koscinski suggested locating dumpsters within 20 feet of the property line abutting residential property and if a complaint is filed, mandate compliance within two years or if no complaints are received on existing dumpsters within two years make no changes. Mr. Komiske asked that the Director of Utilities be given the option of overriding the regulation if there is no other viable place for the dumpster and Councilmembers agreed. Councilmember Kovach suggested allowing compliance within six months. Mr. Koscinski suggested language that read "where reasonably practicable." He said Midway Grocery on Eufaula Avenue is a perfect example of commercial business with a dumpster abutting a residential area that would be in violation under the proposed ordinance and where there is no other viable place to locate their dumpster to be compliant. Ms. Messner suggested the language read, "dumpsters must be relocated as close as practicable to the property line in order to comply to the new requirements" and Councilmembers agreed. Chairman Dillingham asked if a six month compliance window would be a problem and Ms. Messner said she thought it would be fine, but would research and draft the ordinance to be sure there would not be any legal issues then bring the draft back to the Committee. Chairman Dillingham asked the draft ordinance be brought back to the Committee in April.

Items submitted for the record

1. PowerPoint presentation entitled, "Department of Utilities Sanitation Division Commercial Dumpster Location Review, " dated January 2011

CONTINUED DISCUSSION REGARDING PROPOSED MODIFICATION TO TEMPORARY/MOBILE FOOD PERMIT REQUIREMENTS.

Ms. Messner said a draft of the proposed ordinance for temporary and mobile food permits was reviewed by the Committee on December 1, 2011, and changes were requested. She said there are two proposed types of temporary licenses, Fixed Temporary Food Service License and Mobile Temporary Food Service License with a definition for the Mobile Temporary Food Service License to read, "shall be for facilities that are vehicle mounted and are readily moveable." She said this was taken from the Oklahoma City ordinance. She said another change was made to Section 13-810(a) deleting the Oklahoma State Bureau of Investigation (OSBI) background check and bonding requirements and changing the insurance requirements to general liability and vehicular insurance. She said Section 13-811(b) was changed to read, "a single location or address shall include a single parking lot shared by multiple businesses." She said she also defined a public right-of-way for better clarification, which includes sidewalks and alleys as well as the street. She said the fee for a thirty day permit was changed to \$50 and \$250 for a 180 day permit.

Chairman Dillingham felt the proposed ordinance was ready to be submitted to the City Council in a Study Session for a full review along with the proposed changes to the Solicitor/Peddler ordinance and Councilmembers agreed. Councilmember Griffith asked when enforcement would begin and Ms. Hall said 30 days after Council adopts the ordinance. She said vendors that currently obtain Temporary Food Service Licenses will be notified upon adoption prior to enforcement. She said these vendors have been advised when they come in to renew their license that changes are in the pipeline, but the City Clerk's Office will follow up with a letter to each vendor with a copy of the ordinance. She said the same procedure of notification will be applied to regular stationary vendors that obtain solicitor/peddler licenses.

Mr. Koscinski asked if Councilmembers were going to allow mobile sales of food on construction sites and Councilmembers said yes. He suggested adding specific language to that effect in Section 13 811(b) or wherever applicable and Ms. Messner said she would place specific language in the ordinance prior to Council's full review. Mr. Koscinski suggested language such as "work sites or construction sites" be used and Councilmember Kovach asked about the difference between work sites and construction sites. Mr. Koscinski said a work site could be a business parking lot, such as Hitachi, versus a site where building construction is taking place. Chairman Dillingham suggested the language read, "shall include but not be limited to work site, construction site, etc."

Items submitted for the record

1. Memorandum dated December 28, 2010, from Leah Messner, Assistant City Attorney, through Jeff Bryan, City Attorney, to City Council Oversight Committee Member, Councilmember Atkins, Councilmember Dillingham, Councilmember Griffith, Councilmember Kovach
2. Draft legislatively notated copy of Ordinance No. O-1011-33

MISCELLANEOUS DISCUSSION.

Councilmember Kovach asked if the proposed solicitor/peddler ordinance had language regarding soliciting in the public right-of-way because he was concerned about the New Life Church of Dallas that comes into Norman and solicits at busy intersections. Ms. Hall said that language is not in the Solicitor/Peddler ordinance because the Church is a charitable organization and they do not need a license to solicit donations. She said the Church does have to comply with certain criteria, i.e., they are not supposed to be in the medians, in the street, or block pedestrian or vehicular traffic. She said in the past verbal notice of the regulations have been given; however, due to constant violations, they now have to sign a written agreement that defines all criteria to follow for soliciting donations in the City of Norman. She said they also have to provide a copy of their non-profit 501C paperwork and each time they are going to be in the City they must call and inform the City Clerk of the day, date, time, and locations and the Police Department is notified. She said the only enforcement mechanisms the City have deal with interference of traffic and obstruction of right-of-way and Ms. Messner said the Police Department did issue two citations to members of the New Life Church during the week of Christmas for being in the street. Ms. Hall said the signed agreement stipulates the language in Chapter 15 so the Church members are aware this would be a violation and they can be cited for the violation.

Councilmember Kovach said he was worried for their safety because he witnessed them in the street at the intersection of McGee and Lindsey during the Christmas week. Chairman Dillingham said she witnessed the same thing at Main and Ed Noble. Councilmember Atkins said they were doing the same thing at 12th Avenue S.E. and Alameda. Ms. Hall said the Church members were soliciting on New Year's Eve, but had not informed the City Clerk's Office they would be in Norman on that day and the Police Department had so many complaints about them being in the street so they asked them to cease soliciting due to violating the agreement as well as being a safety hazard to vehicular traffic and themselves. Ms. Hall said she had not heard from the Church since the citations were issued.

Ms. Hall said the City of Norman is not the only City having problems with New Life Church as Wichita, Kansas officials have contacted her office for information on Norman's regulations as they are also having problems. She said Wichita's Council will review an ordinance in February 2011 to prohibit charitable solicitations in intersections citywide. She said Wichita's City Council appointed a committee to review their permit process as well as possible alternatives to soliciting at intersections. She said she will follow those results and report back to the Committee.

Chairman Dillingham said the Committee will address the Mass Gathering/Festival and Special Events ordinance on February 2, 2011. She there are a couple of problems that have arisen regarding game days on Campus Corner and the Music Festival downtown. She said some downtown business owners that are open on Saturdays are concerned that the Music Festival is limiting their ability to conduct business and they want business owners as well as property owners to have leverage on whether or not the street is closed. Ms. Hall said the Music Festival has been more problematic this year due to Easter weekend and the 89'er Day Parade. Chairman Dillingham asked Staff to notify the Downtowners Association and other merchants downtown as well as Campus Corner.

Ms. Hall said the Campus Corner Association would like more control over who can conduct business outside during game day events since they pay costs related to the event. She said Mr. Jeff Stewart, owner of O'Connell's, is also interested in discussing an Overlay District for Campus Corner.

Councilmember Kovach asked that minutes from previous discussions regarding Festivals and Special Events be provided to Committee members to refresh their memory.

The meeting adjourned at 6:33 p.m.